

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Trevira GmbH
U.S. Serial No. : 76/294,340
Mark : **BIOACTIVE and Design**
Int'l Class : 25
Filing Date : August 2, 2001
Examining Attorney : Scott Oslick
Law Office : 108



07-09-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

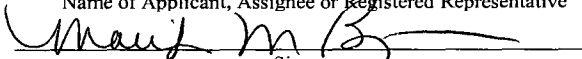
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Marilyn Matthes Brogan, Reg. No. 31,223

Name of Applicant, Assignee or Registered Representative


Signature

July 3, 2003

Date of Signature

**REQUEST FOR RESPONSE TO AMENDMENT AFTER FINAL REFUSAL AND
REQUEST FOR SUSPENSION OF APPEAL AND RESETTING OF TIME TO FILE
APPEAL BRIEF**

BOX TTAB-NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Dear Sir:

Applicant hereby requests a response to Applicant's Amendment after Final Refusal and, pending decision on same, Applicant further requests a suspension of this appeal and a resetting of the time to file Applicant's Appeal Brief.

REMARKS

By paper dated July 1, 2002, a final refusal issued with respect to registration of this mark for goods in classes 22, 23, 24 and 25.

Subsequently, by paper dated January 2, 2003, Applicant filed a Request to Divide this application to retain the goods in International Classes 22, 23 and 24 in the parent application, and by making the goods in International Class 25, the subject of a new application. Applicant also filed a Notice of Appeal for all classes of goods in this application.

On January 2, 2003, Applicant also filed an Amendment After Final Refusal and Request for Reconsideration, by which paper Applicant requested amendment to the identification of goods in Class 25.

Subsequently, by paper dated January 29, 2003, the appeal was instituted but proceedings were suspended and the application file forwarded to the Intent to Use Branch for processing of the Request to Divide. By that same January 29, 2003 paper, the Board instructed the Intent to Use Branch to return the "parent" and the newly-created "child" applications to the Board for further processing subsequent to the decision on the Request to Divide.

Next, by paper dated March 13, 2003, the Intent to Use Branch confirmed that the divisional request had been processed and that the goods and/or services in Classes 22, 23 and 24 were placed in the newly created child application serial no. 76/975,309, and that the goods in International Class 25 would remain in the original parent application serial no. 76/294,340 (the instant application).

Applicant was next advised by the Board by paper dated March 28, 2003, that the Intent to Use Branch completed the processing of the divisional application, but that the appeal was suspended and the file remanded to the Examining Attorney for consideration of the After Final Amendment filed January 2, 2003.

By that same March 28, 2003 paper, the Board instructed the Examining Attorney, that if the January 2, 2003 amendment to the identification of goods (i.e. the amendment to the Class 25 goods) is not acceptable, the Examining Attorney should issue an Office Action to that effect, indicating the reasons why the proposed amendment is unacceptable, and if possible, advising applicant as to how to cure any deficiency in the identification.

By the March 28, 2003 paper, the Board indicated that if said amendment is accepted and if the mark is found registrable on the basis of this paper, the appeal would be moot.

Subsequently, by paper dated April 18, 2003, the Trademark Examining Attorney issued a paper confirming that the divisional request had been processed and the newly created "child" application was approved for publication and that the parent application serial no. 76/294,340, (the instant application), returned to the Trademark Trial and Appeal Board for resumption of Applicant's appeal.

However, no response or comments from the Examiner with respect to Applicant's after final amendment to the Class 25 identification of goods was contained in that April 18, 2003 decision from the Examining Attorney.

Subsequently, by paper dated May 5, 2003, the Board resumed the appeal of the instant application, stating that it did so in view of the Decision of the Trademark Examining Attorney dated April 18, 2003, and Applicant was accorded until July 4, 2003 in which to file its appeal brief.

At this time, however, in view of the fact that no response has been received from the Trademark Examining Attorney with respect to Applicant's after final amendment to the identification of goods in Class 25, (as set forth in Applicant's After Final Amendment and Request for Reconsideration dated January 2, 2003), Applicant now respectfully requests a response to Applicant's Amendment after Final Refusal and, pending decision on same, Applicant further requests a suspension of this appeal and, depending upon the decision of the Examining Attorney, a resetting of the time to file Applicant's Appeal Brief.

It is believed that no fees should be required for the instant submission. However, if any fees are required, or if any overpayment has been made, please charge or credit Deposit Account No. 05-0320.

Respectfully submitted,

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By:



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